

NOT FOR PUBLICATION

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

**IN RE: FOSAMAX (ALENDRONATE
SODIUM): PRODUCTS LIABILITY
LITIGATION**

THIS DOCUMENT RELATES TO:
Carl Donald Johnson, No. 13-cv-5167

MDL No. 2243

Master Docket No. 08-08 (JAP)(LHG)
Individual Docket No. 13-5167

ORDER

PISANO, District Judge

Presently before the Court is Defendant, Merck Sharp & Dohme Corp. and Merck & Co., Inc.'s (collectively "Merck" or "Defendant") motion to dismiss [docket #3213] Plaintiff, Carl Donald Johnson's ("Plaintiff") case for failure to provide a verified Plaintiff Profile Form ("PPF") and Authorizations for Release of Medical Records and other sources of information ("Authorizations") as required by Case Management Order No. 8 ("CMO 8"), and counsel James A. McKowen's ("counsel") motion to withdraw as Plaintiff's attorney from this matter [docket #8 in 13-5167]. The Court considered the papers filed by the parties and rules on the written submissions without oral argument pursuant to Federal Rule of Civil Procedure 78.

IT APPEARING TO THE COURT THAT, CMO 8 requires Plaintiffs to submit completed PPFs and Authorizations to counsel for Defendant within seventy-five (75) days from the date their complaint is answered; and

IT APPEARING TO THE COURT THAT, to the extent any Plaintiff fails to submit the required forms, Merck may thereafter send a deficiency letter giving the individual Plaintiff thirty (30) days to cure; and

IT APPEARING TO THE COURT THAT, CMO 8 provides where any Plaintiff fails to cure, Merck may move for dismissal of the Plaintiffs' claims; and

IT APPEARING TO THE COURT THAT, Plaintiff Carl Donald Johnson failed to provide Merck with the required PPF and Authorization; and

IT APPEARING TO THE COURT THAT, Merck sent Plaintiff's counsel a deficiency letter surrounding the failure; and

IT APPEARING TO THE COURT THAT, Plaintiff failed to cure the deficiencies and Plaintiff's counsel was advised that Plaintiff is now deceased; and

IT APPEARING TO THE COURT THAT, counsel has made a good faith attempt to obtain the required forms, but Plaintiff's next of kin has advised counsel that no estate was created on behalf of the Plaintiff;

Accordingly,

It is on this 5th day of November, 2014,

ORDERED that Merck's motion to dismiss [docket #3213] is GRANTED, as Plaintiff has failed to comply with CMO 8 or to cure the deficiencies; and it is further

ORDERED that counsel's motion to withdraw as Plaintiff's attorney from this matter [docket #8 in 13-5167] is GRANTED, as no estate has been created on behalf of Plaintiff to continue pursuing the matter; and it is further

ORDERED that the Clerk of this Court shall terminate Plaintiff Carl Donald Johnson from lead docket 08-cv-08; and it is further

ORDERED that Plaintiff's individual Complaint is DISMISSED, without prejudice; and it is further

ORDERED that the Clerk of this Court shall close Plaintiff's individual action, docket no. 13-cv-5167.

/s/ Joel A. Pisano
JOEL A. PISANO
United States District Judge